

**TA-703-2018
TA-1163-2019**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 08.08.2022

1. TA-703-2018 (O&M)

Satwant Kaur

....Petitioner

Vs.

Charanjit Singh

....Respondent

2. TA-1163-2019 (O&M)

Charanjit Singh

....Petitioner

Vs.

Satwant Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

**Present: Mr. S.K. Arora, Advocate
for the petitioner (in TA-703-2018) and
for the respondent (in TA-1163-2019).**

**Mr. Parminder Singh-I, Advocate (legal aid counsel)
for the petitioner (in TA-1163-2019) and
for the respondent (in TA-703-2018).**

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in TA-703-2018, filed by petitioner Satwant Kaur, is for

transfer of the petition filed by the respondent-husband under Section 9 of the Hindu Marriage Act (for short 'HM Act'), pending before the Civil Judge (Jr. Divn.), Bathinda to the competent Court of jurisdiction at Faridkot.

Prayer in TA-1163-2019, filed by petitioner Charanjeet Singh, is for transfer of the petition filed by the respondent-wife under Section 13 of HM Act, pending before the Family Court, Faridkot to the competent Court of jurisdiction at Bathinda.

On 30.11.2018, while issuing notice of motion, case was referred to the Mediation and Conciliation Centre of this Court, however, on both the occasions, when the case was sent, no amicable settlement could be arrived at between the parties and the same is transferred back to the Court.

Learned counsel for petitioner Satwant Kaur has argued that since the petition under Section 9 of HM Act filed by husband Charanjeet Singh and petition under Section 13 of HM Act filed by wife Satwant Kaur deserve to be decided by one Court, so as to pass an effective order, the petition under Section 9 of HM Act filed by husband Charanjeet Singh be transferred from Bathinda to Faridkot, as petitioner Satwant Kaur is facing great difficulty in prosecuting the petition filed by the respondent, as there is a distance of about 70 kms from Faridkot to Bathinda.

Learned counsel has relied upon the judgments **Sumita Singh Vs. Kumar Sanjay, 2002 SC 396** and **Rajani Kishor Pardeshi Vs. Kishor Babulal Pardeshi, 2005(12) SCC 237**, wherein the Hon'ble Supreme Court

observed that while deciding the transfer application, the Courts are required to give more weightage and consideration to the convenience of the female litigants and transfer of legal proceedings from one Court to another should ordinarily be allowed, taking into consideration their convenience and the Courts should desist from putting female litigants under undue hardships.”

Learned counsel has further relied upon **N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 Live Law (SC) 627**, wherein the Hon’ble Supreme Court held as under: -

“The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socioeconomic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.

Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried

together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

Reply filed in TA-703-2018 is on record, in which an objection has been raised that the children are residing with the husband and he has old age parents.

Learned counsel for husband Charanjeet Singh has, however, opposed the prayer for transfer of petition under Section 9 of HM Act filed by husband Charanjeet Singh.

It is well settled that while considering the transfer of a matrimonial dispute/case at the instance of the wife, the Court is to consider family condition of the wife, custody of the minor child, economic condition of the wife, her physical health and earning capacity of the husband and most important, convenience of the wife i.e. she cannot travel alone without assistance of a male member of her family, connectivity of the place to and fro from her place of residence as well as bearing of the litigation charges and travelling expenses.

After hearing the counsel for the parties, considering the fact that the petitioner-wife, in TA-703-2018, will have to bear the litigation expenses and transportation expenses and in view of the judgments in **Sumita Singh's** case (supra), **Rajani Kishor Pardeshi's** case (supra) and **N.C.V. Aishwarya's** case (supra) passed by the Hon'ble Supreme Court and also in view of the fact that no amicable settlement could be arrived at between the parties, despite reference to Mediation and Conciliation Centre

of this Court twice, this Court deem it appropriate to allow the petition filed by petitioner-wife Satwant Kaur, in TA-703-2018,, subject to the following conditions:-

- 1. The petition filed under Section 9 of the Hindu Marriage Act, pending before the Civil Judge (Jr. Divn.), Bathinda will be transferred to the competent Court of jurisdiction at Faridkot.*
- 2. The District Judge, Faridkot will assign the said petition to the competent Court of jurisdiction.*
- 3. The Family Court, Bathinda is directed to transfer all the record pertaining to the aforesaid case to District Judge, Faridkot.*
- 4. The parties are directed to appear before the Family Court, Faridkot within a period of 01 month from today.*

In view of the above, TA-1163-2019, filed by petitioner-husband Charanjeet Singh praying for transfer of petition under Section 13 of HM Act, filed by petitioner-wife, in TA-703-2018, is dismissed.

A photocopy of this order be placed on file of connected case.

[ARVIND SINGH SANGWAN]
JUDGE

08.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No